

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

No. 12-20236

Plaintiff,

Honorable Robert H. Cleland

v.

Count One: 21 U.S.C. § 841(a)(1)

Maximum Penalty: Forty years

RUSSELL TYSHAUN BRIGGS,

Maximum Fine: \$5,000,000

Defendant.

Count Two: 21 U.S.C. § 841(a)(1)

Maximum Penalty: Twenty years

Maximum Fine: \$1,000,000

Supervised Release: At least four years

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant RUSSELL TYSHAUN BRIGGS and the government agree as follows:

1. GUILTY PLEA

A. Counts of Conviction

Defendant will enter a plea of guilty to **Counts One and Two** of the Indictment, which charge possession with intent to distribute more than twenty-eight grams of cocaine base and possession with intent to distribute cocaine, both in violation of 21 U.S.C. § 841(a)(1).

B. Elements of Offense

The elements of Counts One and Two, possession with intent to distribute controlled substances, are:

1. The defendant knowingly, intentionally and unlawfully possessed a controlled substance;
and

2. The defendant intended to distribute the controlled substance.

C. Factual Basis for Guilty Plea

The following facts are a sufficient and accurate basis for defendant's guilty plea:

On March 3, 2011, Russell Tyshaun Briggs' home in Detroit, Michigan, was searched pursuant to a search warrant. Briggs was present in the home at the time of the search. A clear baggie containing 51.5 grams of crack cocaine was recovered floating in the toilet bowl. Briggs had attempted to flush the baggie of crack down the toilet when agents/officers knocked and announced the search warrant. In addition, a clear baggie containing 6.7 grams of cocaine was recovered in the kitchen, next to a digital scale. The crack and the cocaine recovered from the home belonged to Briggs, and he intended to distribute the controlled substances to others.

2. SENTENCING GUIDELINES

A. Standard of Proof

The Court will find sentencing factors by a preponderance of the evidence.

B. Agreed Guideline Range

There are no sentencing guideline disputes. Except as provided below, the parties recommend that the defendant's guideline range is **60-71** months, as set forth on the attached worksheets. If the Court finds:

- a) that defendant's criminal history category is higher than reflected on the attached worksheets, or
- b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from his

probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than **60-71** months, the higher guideline range becomes the range recommended by defendant and government. The Court is not bound by this recommendation concerning the guideline range, and the defendant understands that he will have no right to withdraw his guilty plea if the Court does not follow this recommendation. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

C. Relevant Conduct

The relevant conduct in this case includes the following:

A firearm was recovered during the search of Briggs' home. The firearm is further described as a Daewoo DP51 9 mm semi-automatic handgun, bearing serial number 11223. The gun was recovered under the mattress in Briggs' bedroom, and was possessed by Briggs.

3. **SENTENCE**

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range.

A. **Imprisonment**

Pursuant to Rule 11(c)(1)(B), the government makes a non-binding recommendation that the sentence of imprisonment be no more than the high-point of the sentencing guideline range as determined by Paragraph 2B. However, the Court **must** impose a sentence of imprisonment on Count One (possession with intent to distribute more than 28 grams of cocaine base) of at least five years.

B. **Supervised Release**

A term of supervised release follows the term of imprisonment. The Court **must** impose a term of supervised release on Count One of **no less than four years**. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. **Special Assessment**

Defendant will pay a special assessment of **\$200** and must provide the government with a receipt for the payment before sentence is imposed.

D. **Fine**

There is no agreement as to fines.

E. **Restitution**

Restitution is not applicable to this case.

5. **OTHER CHARGES**

If the Court accepts this agreement, the government will dismiss all remaining charges in this case.

6. **EACH PARTY'S RIGHT TO WITHDRAW FROM THIS AGREEMENT**

The recommendations in Part 3 are not binding on the Court. Defendant has no right to withdraw his guilty plea and the parties have no right to withdraw from this agreement if the Court decides not to follow them.

7. **WAIVER OF APPEAL**

Defendant waives any right he may have to appeal his conviction. If the sentence imposed does not exceed the maximum recommendation allowed by Part 3 of this agreement, defendant also waives any right he may have to appeal his sentence. If the sentence imposed is within the guideline range determined by Paragraph 2B the government agrees not to appeal the sentence, but retains its right to appeal any sentence below that range.

8. **CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA OR VACATION OF CONVICTION**

If defendant is allowed to withdraw his guilty plea or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing him to withdraw his guilty plea becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea or to any conduct reflected in the attached worksheets, defendant

waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

9. PARTIES TO PLEA AGREEMENT

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

10. SCOPE OF PLEA AGREEMENT

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.


Notwithstanding the previous paragraph, if defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.

This agreement also does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

11. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by **5:00 P.M. on 5/29/2012**. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

BARBARA L. MCQUADE
United States Attorney



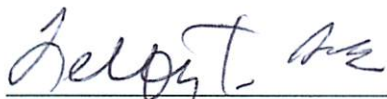
KEVIN M. MULCAHY
CHIEF, GENERAL CRIMES UNIT
ASSISTANT UNITED STATES ATTORNEY




SARA D. WOODWARD
ASSISTANT UNITED STATES ATTORNEY

DATE: MAY 22, 2012

BY SIGNING BELOW, DEFENDANT ACKNOWLEDGES THAT HE HAS READ (OR BEEN READ) THIS ENTIRE DOCUMENT, UNDERSTANDS IT, AND AGREES TO ITS TERMS. HE ALSO ACKNOWLEDGES THAT HE IS SATISFIED WITH HIS ATTORNEY'S ADVICE AND REPRESENTATION. DEFENDANT AGREES THAT HE HAS HAD A FULL AND COMPLETE OPPORTUNITY TO CONFER WITH HIS LAWYER, AND HAS HAD ALL OF HIS QUESTIONS ANSWERED BY HIS LAWYER.



LEROY T. SOLES
ATTORNEY FOR DEFENDANT



RUSSELL TYSHAUN BRIGGS
DEFENDANT

DATE:

Defendant: Russell Tyshaun Briggs Count: One and Two
Docket No.: 12-20236 Statute(s): 21 U.S.C. § 841(a)(1)

WORKSHEET A (Offense Levels)

Complete one Worksheet A for each count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction) before applying the multiple-count rules in U.S.S.G. ch. 3, pt. D. However, in any case involving multiple counts of conviction, if the counts of conviction are all "closely related" to each other within the meaning of U.S.S.G. § 3D1.2(d), complete only a single Worksheet A.

1. BASE OFFENSE LEVEL AND SPECIFIC OFFENSE CHARACTERISTICS (U.S.S.G. ch. 2)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
§2.D.1.1(c)(7)	At least 100 kg but less than 400 KG marijuana (51.5 g crack X 3571 = 183.9 kg marijuana; 6.7 g cocaine X 200 = 1.34 kg marijuana; TOTAL = 185.24 kg marijuana)	26
	possession of a dangerous weapon	+2

2. ADJUSTMENTS (U.S.S.G. ch. 3, pts. A, B, C)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>

3. ADJUSTED OFFENSE LEVEL

Enter the sum of the offense levels entered in Items 1 and 2. If this Worksheet A does not cover every count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction), complete one or more additional Worksheets A and a single Worksheet B.

28

If this is the only Worksheet A, check this box and skip Worksheet B.

X

If the defendant has no criminal history, check this box and skip Worksheet C.

X

Defendant: Russell Tyshaun Briggs Count: One and Two
Docket No.: 12-20236 Statute(s): 21 U.S.C. § 841(a)(1)

WORKSHEET D (Guideline Range)

1. (COMBINED) ADJUSTED OFFENSE LEVEL

Enter the adjusted offense level entered in Item 3 of Worksheet A or the combined adjusted offense level entered in Item 8 of Worksheet B.

28

2. ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY (U.S.S.G § 3E1.1)

-3

3. TOTAL OFFENSE LEVEL

Enter the difference between Items 1 and 2.

25

4. CRIMINAL HISTORY CATEGORY

Enter "I" if the defendant has no criminal history. Otherwise, enter the criminal history category entered in Item 6 of Worksheet C.

I

5. CAREER OFFENDER/CRIMINAL LIVELIHOOD/ARMED CAREER CRIMINAL/DANGEROUS SEX OFFENDER (U.S.S.G. ch. 4, pt. B)

a. Total Offense Level: If the career offender provision (U.S.S.G. § 4B1.1), the criminal livelihood provision (U.S.S.G. § 4B1.3), the armed career criminal provision (U.S.S.G. § 4B1.4), or the dangerous sex offender provision (U.S.S.G. § 4B1.5) results in a total offense level higher than the total offense level entered in Item 3, enter the higher offense level total.

b. Criminal History Category: If the career offender provision (U.S.S.G. § 4B1.1), the armed career criminal provision (U.S.S.G. § 4B1.4), or the dangerous sex offender provision (U.S.S.G. § 4B1.5) results in a criminal history category higher than the criminal history category entered in Item 4, enter the higher criminal history category.

6. GUIDELINE RANGE FROM SENTENCING TABLE (U.S.S.G. ch. 5, pt. A)

Enter the guideline range in the Sentencing Table (*see* U.S.S.G. ch. 5, pt. A) produced by the total offense level entered in Item 3 or 5.a and the criminal history category entered in Item 4 or 5.b.

57-71
months

7. STATUTORY RESTRICTIONS ON OR SUPERSESSION OF GUIDELINE RANGE

If the maximum sentence authorized by statute is below, or a minimum sentence required by statute is above, the guideline range entered in Item 6, enter either the guideline range as restricted by statute or the sentence required by statute. (*See* U.S.S.G. § 5G1.1.) If the sentence on any count of conviction is required by statute to be consecutive to the sentence on any other count of conviction, explain why.

60-71
months

Defendant:	<u>Russell Tyshaun Briggs</u>	Count:	<u>One and Two</u>
Docket No.:	<u>12-20236</u>	Statute(s):	<u>21 U.S.C. § 841(a)(1)</u>

WORKSHEET E (Authorized Guideline Sentences)

1. PROBATION (U.S.S.G. ch. 5, pt. B)

a. Imposition of a Term of Probation (U.S.S.G. § 5B1.1)

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1. Probation is not authorized by the guidelines (minimum of guideline range \geq 10 months or statute of conviction is a Class A or a Class B felony). If this box is checked, go to Item 2 (Split Sentence).

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2. Probation is authorized by the guidelines (minimum of guideline range = zero months).
3. Probation is authorized by the guidelines, provided the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention satisfying the minimum of the guideline range (minimum of guideline range $>$ 0 months but \leq 9 months).

b. Length of Term of Probation (U.S.S.G. § 5B1.2)

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1. At least 1 year but not more than 5 years (total offense level \geq 6).
2. No more than 3 years (total offense level $<$ 6).

c. Conditions of Probation (U.S.S.G. § 5B1.3)

The court must impose certain conditions of probation and may impose other conditions of probation.

2. SPLIT SENTENCE (U.S.S.G. § 5C1.1(c)(2), (d)(2))

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- a. A split sentence is not authorized (minimum of guideline range = 0 months or \geq 15 months).

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- b. A split sentence is authorized (minimum of guideline range $>$ 0 months but \leq 12 months). The court may impose a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, provided that at least one-half of the minimum of the guideline range is satisfied by imprisonment (if the minimum of the guideline range is 10 or 12 months), or that at least one month is satisfied by imprisonment (if the minimum of the guideline range is 1, 2, 3, 4, 6, 8, or 9 months). The authorized length of the term of supervised release is set forth below in Item 4.b.

3. IMPRISONMENT (U.S.S.G. ch. 5, pt. C)

A term of imprisonment is authorized by the guidelines if it is within the applicable guideline range (entered in Item 6 of Worksheet D). (See U.S.S.G. § 5C1.1.)

Defendant:	<u>Russell Tyshaun Briggs</u>	Count:	<u>One and Two</u>
Docket No.:	<u>12-20236</u>	Statute(s):	<u>21 U.S.C. § 841(a)(1)</u>

(WORKSHEET E, p. 2)

4. SUPERVISED RELEASE (U.S.S.G. ch 5., pt. D)**a. Imposition of a Term of Supervised Release (U.S.S.G. § 5D1.1)**

The court must impose a term of supervised release if it imposes a term of imprisonment of more than one year, or if it is required to do so by statute. The court may impose a term of supervised release if it imposes a term of imprisonment of one year or less.

b. Length of Term of Supervised Release (U.S.S.G. § 5D1.2)☐

1. At least 3 years but not more than 5 years, where the count of conviction is a Class A or a Class B felony, i.e., an offense carrying a maximum term of imprisonment \geq 25 years.

☐

2. At least 2 years but not more than 3 years, where the count of conviction is a Class C or a Class D felony, i.e., an offense carrying a maximum term of imprisonment \geq 5 years but $<$ 25 years.

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3. 1 year, where the count of conviction is a Class E felony or a Class A misdemeanor, i.e., an offense carrying a maximum term of imprisonment $>$ 6 months but $<$ 5 years.

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4. The statute of conviction requires a minimum term of supervised release of 4 years.

c. Conditions of Supervised Release (U.S.S.G. § 5D1.3)

The court must impose certain conditions of supervised release and may impose other conditions of supervised release.

5. RESTITUTION (U.S.S.G. § 5E1.1)☐

1. The court *must* order full restitution to the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3556, 3663A, 3664.) The court will determine who the victims are and their restitution amounts.

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2. The court *must* order full restitution to the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3556, 3663A, 3664.) The parties agree that full restitution is \$__.

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3. The parties agree that the court *may* order restitution to the victim(s) of the offense(s) of conviction in any amount up to and including \$__. (See 18 U.S.C. §§ 3663(a)(3), 3664.)

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4. The parties agree that the court *may also* order restitution to persons other than the victim(s) of the offense(s) of conviction in any amount up to and including \$__. (See 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(3), 3664.)

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5. Restitution is not applicable.

Defendant:	<u>Russell Tyshaun Briggs</u>	Count:	<u>One and Two</u>
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(WORKSHEET E, p. 3)

6. FINE (U.S.S.G. § 5E1.2)**a. Fines for Individual Defendants**

The court must impose a fine unless “the defendant establishes that he [or she] is unable to pay and is not likely to become able to pay any fine.” (See U.S.S.G. § 5E1.2(a).) Generally, the fine authorized by the guidelines is limited to the range established in the Fine Table. (See U.S.S.G. § 5E1.2(b).) However, there are exceptions to this general rule. (See U.S.S.G. § 5E1.2(b), (c)(4).)

b. Fine Range from Fine Table (U.S.S.G. § 5E1.2(c)(3))**Minimum Fine****Maximum Fine**\$ 10,000\$ 100,000**7. SPECIAL ASSESSMENT(S) (U.S.S.G. § 5E1.3)**

The court must impose a special assessment on every count of conviction. The special assessments for individual defendants are

- \$100.00 for every count charging a felony (\$400 for a corporation)
- \$ 25.00 for every count charging a Class A misdemeanor (\$125 for a corporation),
- \$ 10.00 for every count charging a Class B misdemeanor (\$50 for a corporation), and
- \$ 5.00 for every count charging a Class C misdemeanor or an infraction (\$25 for a corporation).

The defendant must pay a special assessment or special assessments in the total amount of \$ 200.

8. FORFEITURE (U.S.S.G. § 5E1.4)☐

Assets of the defendant will be forfeited.

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Assets of the defendant will not be forfeited.

9. ADDITIONAL APPLICABLE GUIDELINES, POLICY STATEMENTS, AND STATUTES

List any additional applicable guideline, policy statement, or statute.

10. UPWARD OR DOWNWARD DEPARTURE (U.S.S.G. ch. 5, pts. H & K)

List any applicable aggravating or mitigating circumstance that might support a term of imprisonment above or below the applicable guideline range.